

77-38a-203 Restitution determination -- Department of Corrections -- Presentence investigation.

- (1)
- (a) The department shall prepare a presentence investigation report in accordance with Subsection 77-18-1(5). The prosecutor and law enforcement agency involved shall provide all available victim information to the department upon request. The victim impact statement shall:
 - (i) identify all victims of the offense;
 - (ii) itemize any economic loss suffered by the victim as a result of the offense;
 - (iii) include for each identifiable victim a specific statement of the recommended amount of complete restitution as defined in Section 77-38a-302, accompanied by a recommendation from the department regarding the payment by the defendant of court-ordered restitution with interest as defined in Section 77-38a-302;
 - (iv) identify any physical, mental, or emotional injuries suffered by the victim as a result of the offense, and the seriousness and permanence;
 - (v) describe any change in the victim's personal welfare or familial relationships as a result of the offense;
 - (vi) identify any request for mental health services initiated by the victim or the victim's family as a result of the offense; and
 - (vii) contain any other information related to the impact of the offense upon the victim or the victim's family that the court requires.
 - (b) The crime victim shall be responsible to provide to the department upon request all invoices, bills, receipts, and other evidence of injury, loss of earnings, and out-of-pocket loss. The crime victim shall also provide upon request:
 - (i) all documentation and evidence of compensation or reimbursement from insurance companies or agencies of the state of Utah, any other state, or federal government received as a direct result of the crime for injury, loss, earnings, or out-of-pocket loss; and
 - (ii) proof of identification, including date of birth, Social Security number, drivers license number, next of kin, and home and work address and telephone numbers.
 - (c) The inability, failure, or refusal of the crime victim to provide all or part of the requested information shall result in the court determining restitution based on the best information available.
- (2)
- (a) The court shall order the defendant as part of the presentence investigation to:
 - (i) complete a financial declaration form described in Section 77-38a-204; and
 - (ii) submit to the department any additional information determined necessary to be disclosed for the purpose of ascertaining the restitution.
 - (b) The willful failure or refusal of the defendant to provide all or part of the requisite information shall constitute a waiver of any grounds to appeal or seek future amendment or alteration of the restitution order predicated on the undisclosed information.
 - (c) If the defendant objects to the imposition, amount, or distribution of the restitution recommended in the presentence investigation, the court shall set a hearing date to resolve the matter.
 - (d) If any party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

Amended by Chapter 74, 2013 General Session